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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

WRIGHT

Case No. 3:17-cv-01066-JR

Plaintiff

vs.

**RESPONSE IN
OPPOSITION TO
MOTION TO STAY**

DEVOS, Secretary of the U.S.
Department of Education

Defendant

**REQUEST FOR
ORAL ARGUMENT**

FACTUAL BACKGROUND

In July 2017 Ms. DeVos was sued in her capacity as United States Secretary of Education by Ms. Wright and various other student loan borrowers throughout the country. Fuller Decl. ¶ 2.

The lawsuits against Ms. DeVos were based on her alleged violation of the Administrative Procedures Act. *Id.* Ms. Wright initially agreed to stay her case while Ms. DeVos decided whether or not to process her application for loan forgiveness. *Id.* Over a year went by and Ms. DeVos denied all liability under the Administrative Procedures Act and never processed Ms. Wright's application. *Id.* Then, in September 2018, Ms. DeVos was held in violation of the Administrative Procedures Act by the United States District Court for the District of Columbia, and Ms. DeVos's notice that triggered the lawsuits against her was vacated. *Id.*

Ms. Wright is represented by pro bono counsel in this lawsuit and intends to seek reimbursement of her costs from Ms. DeVos, including her \$400 filing fee and service of process expenses. *Id.* In the last status report to this Court, Ms. DeVos represented that she would continue discussions to resolve the sole remaining issue of costs. Doc. #27. Since that time Ms. Wright has heard nothing from Ms. DeVos in this regard. Fuller Decl. ¶ 2.

ARGUMENT

The “government shutdown ‘is a dispute internal to one party, the Federal Government.’” Order Refusing to Stay Cases, 2:18-mc-00196, Doc. #3 (S.D. W. Va. Jan 2, 2019). The government “should not be given special influence or accommodation in cases where such special considerations are unavailable to other litigants.” *Id.* “The government, like all parties, is “required to find means by which to continue its participation in [its] litigation on a timely basis regardless of internal issues.”

Ms. Wright was compelled to file this lawsuit based on Ms. DeVos’s violation of the Administrative Procedures Act and Ms. DeVos’s refusal to process Ms. Wright’s application to forgive the predatory student loans Ms. Wright incurred at the now-defunct ITT Technical Institute. Fuller Decl. ¶ 3.

Ms. Wright waited faithfully for well over a year for Ms. DeVos to process her application for loan forgiveness while this case remained stayed. *Id.* Now, after Ms. DeVos has been held in violation of the Administrative Procedures Act and conceded her legal position, and the only remaining issue is the reimbursement of Ms. Wright’s costs, Ms. DeVos again seeks to delay Ms. Wright’s access to justice, now for an indefinite period of time, while Ms. DeVos’s employer sorts out its self-inflicted internal budget issues. *Id.*

President Trump has indicated that the government shutdown may last for “months or even years”. Fuller Decl. ¶ 3. It is not fair for Ms. Wright and her pro bono attorneys to be trapped in this litigation indefinitely under these circumstances, when the only remaining issue is Ms. Wright’s entitlement to reimbursement of her filing fee and service of process expenses. *Id.*

CONCLUSION

“Justice delayed is justice denied”. *Patru v. Rush*, No. 3:13-cv-00357-SI, 2015 U.S. Dist. LEXIS 57906, at *11 (D. Or. May 4, 2015) (internal citation omitted).

This case has been stayed long enough. Respectfully, this Court should deny Ms. DeVos’s motion for a further indefinite stay, and instead reinstate the case so Ms. Wright can take any necessary discovery and file her application for a final judgment and costs.

January 16, 2019

RESPECTFULLY FILED,

s/ Michael Fuller

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CERTIFICATE OF SERVICE

I certify that I served this document and all attachments on all parties to this action by email via ECF.

January 16, 2019

s/ Michael Fuller

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